



CREDIT UNION CENTERSM

Handwritten: 8 July 97

New York State Credit Union League, Inc. and Affiliates

July 7, 1997

Mr. John P. Galligan, Director
Card Technology Division
Financial Management Service
U.S. Department of the Treasury, Room 526
Liberty Center
401 14th Street, S.W.
Washington, DC 20227

Re: Electronic Benefits Program

Dear Mr. Galligan:

On behalf of our member credit unions, the New York State Credit Union League and its affiliates would like to thank the Treasury for inviting us to comment on the Direct Federal Electronic Benefits Transfer (EBT) program, which provides for electronic delivery of federal payments for the "unbanked."

While we support the general mission to disburse federal payments through electronic means, we believe the current proposal is lacking in sufficient detail. Below please find the specific areas of concern which were outlined in the proposal, and our thoughts and recommendations on each subject.

Process to Become a Financial Agent

The rule is completely lacking in describing the process by which an "eligible financial institution" becomes a financial agent of the Treasury for purposes of the EBT program. Is the Treasury going to encourage as many institutions as possible for the program or limit it to a select few? Must the financial institution meet a certain asset size? How long must they have an ATM/POS program before becoming eligible for the EBT program? How will termination of the principal/agent relationship be handled, such as the notice period, definition of default, etc.? How will Financial Agents be marketed by the Treasury to the unbanked or is this the responsibility of the Agents?

At a minimum, the basic frame work of this process should be made part of the rule. The detailed operational issues may be internal policy of the Treasury, however, many of the details should be made part of the regulation and changes to these regulations should be made part of the regulatory process. There are too many instances where the rule refers

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to the “terms and conditions of the Treasury” and “customer service duties” without including what they would encompass.

Definition of “Disperse”

This definition relies heavily on the phrase “on the terms specified by the Service in accordance with this part.” Again, there is not enough information regarding the most important aspects of the rule, which are: recipient access to these funds and the rules with which the Financial Agent must comply to implement disbursement. For example, could the financial agent issue a check to the recipient as long as the Treasury has utilized the ACH for providing the funds to the Financial Agent? We recommend the terms of disbursement be made part of the rule.

When does an Unbanked Recipient Become a Banked Recipient?

The rule does not specify at what point an unbanked recipient becomes a banked recipient. Credit unions may only serve their members and in all cases the credit union would be required to make the unbanked recipient a member of the credit union. This would appear to make that member a banked recipient. We recommend the rule include the point at which the unbanked recipient would be considered “banked.”

Financial Agent Working with a Third Party

In many areas of the proposed rule, the Treasury makes clear that the Financial Agent may work with a third party. Does it matter in what capacity the third party acts, such as using a corporate credit union (a credit union for credit unions) acting as the Financial Agent and forwarding on the ACH credit to a natural person credit union account held at the corporate credit union? In addition, credit unions have developed and utilize shared service centers where credit unions share a physical building and a teller platform. Member’s swipe their access device and the teller platform brings up that member’s account information. This would be another way credit unions would use a third party for this program. We recommend the rule specifically state how a third party may be utilized in various segments of the transaction (i.e. accepting the ACH or in the disbursement of the funds).

Compliance with Regulation E

We recommend that the parties involved in the EBT program be allowed to contractually delegate the compliance requirements of Regulation E. Using the above scenario, utilizing corporate credit unions as the Financial Agent, corporate credit unions have credit unions as members and currently do not have to comply with Regulation E. However, it is the responsibility of the natural person credit unions provide Regulation E disclosures relative to their ATM programs. In this scenario, the corporate credit union may be deemed the Financial Agent because it has accepted the ACH, but the natural person credit unions would hold the account and provide the appropriate disclosures. It should be clear in the

final rule as to who is responsible for providing Regulation E disclosures to the recipients and whether this responsibility may be delegated to a third party.

Once again, we would like to thank Treasury for this opportunity to comment. We would be happy to more fully discuss our thoughts, if you so desire.

Sincerely,

A handwritten signature in black ink, appearing to read 'W. J. Mellin', written in a cursive style.

William J. Mellin
Interim President

WJM/sc

c: Kathy Thompson, Senior Vice President/Regulatory Affairs, CUNA
Washington
Sue McCarthy, Vice President, Member Services